

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT M. REIGER,
 Petitioner,
 vs.
 DWIGHT NEVENS, *et al.*,
 Respondents.

3:12-cv-00218-LRH-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. On September 25, 2012, the Court entered an order directing respondents to file an answer or other response to the petition. (ECF No. 11).

Petitioner has filed a motion for leave to amend his habeas petition. (ECF No. 15). Regarding plaintiff's motion to amend, Rule 15 provides that a party may amend his pleading once as a matter of course within 21 days after service of a responsive pleading, or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. Fed. R. Civ. P. 15(a)(1)(B). There being no responsive pleading or Rule 12 motion brought in this action to date, plaintiff is entitled to file an amended petition. Plaintiff's motion to amend the petition is granted. This action shall proceed on the first amended petition (ECF No. 15-1), the memorandum of points and authorities (ECF No. 15-2), and the supplemental petition (ECF No. 15-3 & 15-4). Respondents are directed to respond to the same, as specified at the conclusion of this order.

Petitioner has filed a motion for reconsideration of this Court's order denying his motion for the appointment of counsel. (ECF No. 14). This Court previously denied petitioner's motion for the

1 appointment of counsel. (ECF No. 6). In his motion for reconsideration, petitioner has not identified
2 any mistake, intervening change in controlling law, or other factor that would require altering the
3 Court's determination that petitioner is not entitled to the appointment of counsel. Petitioner's
4 motion for reconsideration is denied.

5 Petitioner has filed a motion for transportation for a court appearance in this action. (ECF
6 No. 10). At this time, there is no court hearing requiring petitioner's presence. As such, petitioner's
7 motion for transport is denied.

8 Finally, respondents have filed a motion for an extension of time to respond to the petition,
9 upon the Court's resolution of petitioner's motion to amend. (ECF No. 16). Good cause appearing,
10 respondents' motion is granted.

11 **IT IS THEREFORE ORDERED** that petitioner's motion for leave to amend the petition
12 (ECF No. 15) is **GRANTED**.

13 **IT IS FURTHER ORDERED** that this action **SHALL PROCEED** on the first amended
14 petition (ECF No. 15-1), the memorandum of points and authorities (ECF No. 15-2), and the
15 supplemental petition (ECF No. 15-3 & 15-4).

16 **IT IS FURTHER ORDERED** that respondents' motion for an extension of time (ECF No.
17 16) is **GRANTED**. Respondents shall have **forty-five (45)** days from entry of this order within
18 which to answer, or otherwise respond to, the first amended petition (ECF No. 15-1), the
19 memorandum of points and authorities (ECF No. 15-2), and the supplemental petition (ECF No. 15-
20 3 & 15-4). In their answer or other response, respondents shall address all claims presented in the
21 petition. Respondents shall raise all potential affirmative defenses in the initial responsive pleading,
22 including lack of exhaustion and procedural default. **Successive motions to dismiss will not be**
23 **entertained**. If an answer is filed, respondents shall comply with the requirements of Rule 5 of the
24 Rules Governing Proceedings in the United States District Courts under 28 U.S.C. §2254. If an
25 answer is filed, petitioner shall have **forty-five (45) days** from the date of service of the answer to
26 file a reply.

27 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
28 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy

1 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
2 **Division of the Clerk of Court.**

3 **IT IS FURTHER ORDERED** that petitioner's motion for reconsideration (ECF No. 14) is
4 **DENIED.**

5 **IT IS FURTHER ORDERED** that petitioner's motion for transportation (ECF No. 10) is
6 **DENIED.**

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8 DATED this 19th day of November, 2012.



10 LARRY R. HICKS
11 UNITED STATES DISTRICT JUDGE
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